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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

GROUP: 2624

Masaaki OGURA, et al.

SERIAL NO: 09/658,566

EXAMINER: PHAM, T.

RCE FILED: December 7, 2004

FOR: IMAGE FORMING DEVICE MANAGEMENT SYSTEM AND METHOD

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s). No more than five (5) pages are provided.

I am the attorney or agent of record.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

A handwritten signature in cursive script, appearing to read "Gregory J. Maier".

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STATUS OF THE CLAIMS

Claims 1, 4-8, 10, 12-16, 18, and 20 are pending in this application. Claims 1, 4, 6-8, 10, 13-16, and 20 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. patent 5,270,775 to Suzuki. Claims 5, 12, and 18 were rejected under 35 U.S.C. § 103(a) as unpatentable over Suzuki as applied in claims 1, 10, and/or 15, and further in view of U.S. patent 5,543,892 to Hirata et al. (herein "Hirata"). Those rejections are traversed.

SUMMARY OF THE INVENTION

Independent claim 1, as an example of the pending claims, is directed to an image forming device management system in which a customer center and a center system are connected by a network, see for example Figure 1 in the present specification. The system includes a data communication device DCD 7 connecting image forming devices 101 to the network. The system recited in claim 1 allows proper communication of usage data from one of the image forming devices 101 to the center system. The present invention particularly addresses a situation to ensure that the usage data is properly communicated when a regularly scheduled day to transmit the usage data falls on a holiday.

To achieve the above objective the center management device can set an early message date that is provided to the data communication device of the customer to set that early message date in the data communication device of the customer. That early message date can be calculated based on the holiday data for the center system and for the customer.

REASONS FOR CLEAR ERROR AND FAILURE

TO PROVIDE A *PRIMA FACIE* CASE OF OBVIOUSNESS

Independent claim 1 positively recites:

early message date setting means for *transmitting* the early message date, calculated by the calculation means, *to the data communication device* via the network, so that the

calculated early message date is *set in the data communication device*. (Emphasis added).

The other independent claims recite similar features. *The above-noted feature is not met by the teachings in Suzuki.*

With respect to the above-noted feature the outstanding rejection states that Suzuki discloses:

(f) early message date setting means (host computer 41 also includes collection-date setting means, col. 7, lines 25-55 and col. 9, lines 15-67) for transmitting (transmit via modem 28B, fig. 1 and fig. 3) the early message date, calculated by the calculation means, to the data communication device via the network, so that the calculated early message date is set in the data communication device.¹

The above-noted basis for the outstanding rejection improperly indicates the teachings in Suzuki as Suzuki does *not* disclose that the host computer 41 sends any message data to any device.

Suzuki discloses being able to set holiday data of the host computer 41 via its keyboard 43. Suzuki discloses that if a set collection date falls on a holiday, the set collection date is changed to an immediately preceding date by the CPU 42 of the computer 41. Suzuki then discloses that “a determination is made by the CPU 42 as to whether or not the post-change set collection day has arrived, and if YES is answered, the *host computer 41 collects management data from the relay apparatus 2*” (Suzuki at column 9, lines 28-32, emphasis added).

From this disclosure, it is clear that in Suzuki the early message date is only set in the computer 41 and is *not sent to or set in any other device*, and particularly is not sent to the relay apparatus 2. In Suzuki host computer 41 itself monitors the set collection date, and when that set date arrives the host computer itself 41 *collects* management data *from* the relay apparatus 2.

¹ Final Rejection of Action of August 23, 2005, page 3.

The claimed inventions have a contrary operation. In the claimed inventions the host computer 41 *transmits* the early message date *to* the data communication device of the customer. That early message date is then set in the data communication device of the customer.

In contrast, in Suzuki the early message date is only set in the host computer 41 and is never transmitted to any device, i.e., is particularly not transmitted to the relay apparatus 2, and thus is not set in any other device besides the host computer 1, i.e., is not set in the relay apparatus 2.

The basis for the rejection noted above on page 3, paragraph (f) in the Office Action is *incorrect* in stating that Suzuki discloses transmitting the early message date from the host computer 41 via the modem 28B. Suzuki does *not disclose or suggest* such features and the Office Action has not pointed to any disclosure in Suzuki that provides such a feature.

At most Suzuki discloses being able to enter calendar data by using the entry key 35 of the relay apparatus 2.² However, even in that instance Suzuki does not disclose or suggest that the relay apparatus 2 receives early message data from the host computer 41, in contrast to the position taken in the Office Action.

The outstanding rejection also recognizes that Suzuki “**fails** to teach an input means for inputting holiday data of the center system (i.e., when the center system is shut down due to holidays and/or closings)” (original emphasis), and in addressing that deficiency in Suzuki the Office Action states “Suzuki’s keyboard 43 *can* also be used for inputting holiday data of the center system” (emphasis added).³ In maintaining the rejection the outstanding rejection also relies upon Suzuki disclosing that “both relay apparatus and host computer 41 are *capable of* setting ‘early message dates’” and that “since both relay apparatus 2 and host computer 41 are continuously communicated in bi-directional communication; therefore,

² See Suzuki at column 10, lines 2-5.

³ Final rejection of August 23, 2005, page 4, lines 17-20.

‘early message date’ set from host computer 41 *can* be transmitted to relay apparatus to via bi-directional communication...”.⁴ The outstanding rejection also states that in Suzuki “host computer 30 *can* also collect management data and transmits to host computer 41”.⁵

First, such statements do not set forth a proper *prima facie* case of obviousness. As noted in M.P.E.P. § 2143, to establish a *prima facie* case of obviousness, the prior art reference must teach or suggest all the claim limitations, and there must be some suggestion or motivation in the references themselves or in the knowledge generally available in the art to modify a reference. That is clearly not the case in the present application and has not even been alluded to in the present application. That is, no teaching in Suzuki is cited as to why it would have been obvious to one of ordinary skill in the art to modify Suzuki to input holiday data of the center system. It is also not indicated where the stated motivation for such a modification comes from, as it appears to only come from applicants’ own teachings and not from any teachings in any prior art.

Each of the above-noted statements for the outstanding rejection also themselves clearly reflect how the rejection is improper. As noted MPEP § 2143.01, the fact that a reference *can* be modified to meet the claim limitations does not establish a proper case of obviousness unless the prior art also suggests the desirability of the modification.

Clearly applicants did not invent an input device that would allow early message date data to be provided. In fact, any keyboard or similar device could be used in that manner. What the present invention sets forth is a system that communicates such early message date data to appropriate parties in an appropriate manner. The outstanding rejection clearly ignores the positively recited claim limitations as simply the applied art to Suzuki does not teach the claimed features and does not provide any suggestion to be modified to teach the claimed features.

⁴ Final rejection of August 23, 2005, page 6, last full paragraph.

⁵ Final rejection of August 23, 2005, page 7, first full paragraph.

Further, one reason it is relevant to input holiday data of the center system in the present invention is because in the present invention the remote customers send usage data to the center system. Therefore, it is beneficial for the remote customers to know at what days the center system may be closed for a holiday so that the usage data can properly be sent prior to such days.

Such a reason, however, is completely irrelevant in the device in Suzuki because in the device of Suzuki the host computer 41 collects the management data from the relay apparatus 2. That is, Suzuki does not operate such that the relay apparatus 2 transmits the management data, but instead in Suzuki the center system of the host computer 41 initiates such an operation. Therefore, it does not even appear relevant for the device of Suzuki to operate so that the calendar information of the host computer 41 itself has to be input to be sent out.

In view of these foregoing comments, applicants respectfully submit the claims as currently written clearly recite features neither taught nor suggested by Suzuki.

Moreover, no teachings in Hirata are believed to overcome the above-noted deficiencies of Suzuki.

In view of these foregoing comments, applicants respectfully submit the claims as currently written distinguish over the applied art, and that the outstanding rejection must be REVERSED.

Respectfully submitted,

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